

REMARKS

This Amendment is filed in response to the non-final Office action dated July 26, 2007, and is respectfully submitted to be fully responsive to the rejections raised therein. Accordingly, favorable reconsideration on the merits and allowance is respectfully submitted to be proper.

The amendments and how they respond to the rejections set forth in the Office action is explained below in detail.

In the present Amendment, claims 1 - 6 have been canceled without prejudice.

Claim 7 -12 have been amended to incorporate subject matter of claims 1- 6.

No new matter has been added. Entry of the Amendment is respectfully submitted to be proper. Upon entry of the Amendment, claims 7 - 12 will be all the claims pending in the application.

The present invention is directed to a polyester multifilament yarn in the form of a woven knitted fabric. The yarn comprises, as a principal component, polyethylene terephthalate polymer produced by polycondensing terephthalate diester of ethylene glycol in the presence of a catalyst.

The Office action dated July 26, 2007 indicated that claims 1 - 12 were rejected. Namely, claim 1 was rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite.

Next, claims 1 - 6 were rejected under 35 U.S.C. § 102(a) as allegedly being anticipated independently by Yamamoto et al. (JP 2003-119619) and Minobe et al. (WO 03/027166).

The Examiner also indicated that claims 7 - 12 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Yamamoto et al. (JP 2003-119619) as applied to claims 1 - 6, and further in view of Cho et al. (US 2003/0059612).

Lastly, claims 1 - 5 and 7 - 11 were rejected on grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1 - 6 of U.S. Patent No. 7,087,299; claims 1 - 6 were rejected as being unpatentable over claims 1 - 8 and 20 - 21 of U.S. Patent No. 7,189,797; claims 1 - 6 were provisionally rejected as being unpatentable over claims 1 - 20 of co-pending U.S. Application No. 10/542,373; and claims 1 - 6 were provisionally rejected as being unpatentable over claims 1 - 15 of co-pending U.S. Application No. 10/535,419.

In the present amendment, claims 1 - 6 have been canceled. Claims 7 - 12 have been amended to incorporate subject matter of claims 1-6. Thus, claim 7 is now drawn to a polyester multifilament yarn in the form of a woven or knitted fabric.

I. Response to Claim Rejection Under 35 U.S.C. § 112

Claim 1 was rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite.

Applicant respectfully submits that claims 1 - 6 have been canceled and therefore the rejection has been rendered moot.

II. Response to Claim Rejection Under 35 U.S.C. § 102(a)

Claims 1 - 6 were rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by Yamamoto et al. (JP 2003-119619).

Claims 1 - 6 were also rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by Minobe et al. (WO 03/027166).

Applicant respectfully submit that claims 1 - 6 have been canceled and therefore the rejection has been rendered moot.

III. Response to Claim Rejection Under 35 U.S.C. § 103(a)

Yamamoto et al. (JP 2003-119619)

Yamamoto et al. was published April 23, 2003, which does not precede the foreign priority date of the present application of March 20, 2003 (JP Patent Application No. 2003-077510). Thus, Yamamoto et al. is not prior art under 35 U.S.C. § 102(a).

Furthermore, Yamamoto et al. is silent as to the specific value of the silk factor of the polyester fiber yarn. In the present invention, the polyester fiber yarn must exhibit a silk factor of 22 or more.

Thus, claims 7 - 12 do not read on Yamamoto et al. Withdrawal of the rejection is respectfully submitted to be proper.

Cho et al. (U.S. 2003/0059612)

Cho et al. discloses a polyester multi-filament yarn prepared from a solid phase-polymerized polyester chip. Namely, the polyester chip described in Cho et al. must be prepared by a solid phase polymerization using an antimony compound as a main polymerization catalyst.

Also, Cho et al. is silent as to the specific polyethylene terephthalate polymer prepared in the presence of a catalyst comprising mixture (1) of a titanium compound component (A) with a phosphorus compound component (B) as defined in the amended claim 1 for the present invention. Thus, Cho et al. does not teach or suggest the advantages of the present invention or the specific polyester multifilament yarn as recited in amended claim 7 of the present application.

IV. Response to the Obviousness-Type Double Patenting Rejections

Without acquiescing to the merits of the rejection, Applicants submit, concurrently with this amendment, a Terminal Disclaimer in compliance with 37 C.F.R. § 1.321(c) or (d) to overcome the rejection over U.S. Patent No. 7,087,299.

Applicant respectfully submits that: (1) the rejection of claims 1-6 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over U.S. Patent No. 7,189,797, and (2) the rejection of claims 1 - 6 on ground of provisional obviousness-type double patenting as being unpatentable over co-pending U.S. Application Nos.: 10/542,373 and 10/541,574 as set forth in paragraphs 5 - 7 on pages 5 and 6 of the Office action of July 26, 2007 are rendered moot, in that claims 1 - 6 have been canceled.

Applicant also notes that the Examiner has asserted that claims 1 - 6 are "unpatentable over co-pending Application No. 10/535,419" (see Office Action at page 6, lines 1 - 3). However, Application No. 10/535,419 is the present application, so Applicant requests clarification of the Examiner's position.

Also, Please note that U.S. Patent No. 7,189,797 is assigned to TEIJIN LIMITED, not TEIJIN FIBER LIMITED, which is the assignee for the present application.

V. Conclusion

In view of the above, reconsideration and allowance of pending claims 7-12 of this application are now believed to be in order, and such actions are hereby earnestly solicited.

If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the local Washington, D.C. telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.


Respectfully submitted,

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